

Before the
Federal Communications Commission
Washington, D.C. 20554

FILED/ACCEPTED
FEB 9-2012
Federal Communications Commission
Office of the Secretary

In re)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of)	
Various Authorizations in the Wireless Radio)	
Services)	
)	
Applicant for Modification of Various	)	Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028, 0004193328,
	)	0004354053, 0004309872, 0004310060,
Applicant with ENCANA OIL AND GAS (USA),	)	0004314903, 0004315013, 0004430505,
INC.; DUQUESNE LIGHT COMPANY; DCP	)	0004417199, 0004419431, 0004422320,
MIDSTREAM, LP; JACKSON COUNTY	)	0004422329, 0004507921, 0004153701,
RURAL MEMBERSHIP ELECTRIC	)	0004526264, 0004636537,
COOPERATIVE; PUGET SOUND ENERGY,	)	and 0004604962
INC.; ENBRIDGE ENERGY COMPANY,)	
INC.; INTERSTATE POWER AND LIGHT)	
COMPANY; WISCONSIN POWER AND)	
LIGHT COMPANY; DIXIE ELECTRIC)	
MEMBERSHIP CORPORATION, INC.;)	
ATLAS PIPELINE – MID CONTINENT, LLC;)	
DENTON COUNTY ELECTRIC)	
COOPERATIVE, INC. , DBA COSERV)	
ELECTRIC; AND SOUTHERN CALIFORNIA)	
REGIONAL RAIL AUTHORITY)	

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

ENFORCEMENT BUREAU'S RESPONSE TO MARITIME'S
UNAUTHORIZED PLEADING

1. On February 8, 2012, the Enforcement Bureau (Bureau) filed a timely response to Maritime's Status Report on Discovery and Request for Partial Extension of Time,¹

¹ See Enforcement Bureau's Comments on Maritime's Status Report on Discovery and Request for Partial Extension of Time, filed February 8, 2012 (Comments).

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notwithstanding the Presiding Judge's *interim* ruling on Maritime's extension request,² in order to ensure that the Presiding Judge has a complete record as he further considers the issue of Maritime's document production. In mischaracterizing the Bureau's February 8th filing as a petition for reconsideration,³ Maritime has afforded itself the opportunity to file an additional (and unauthorized) pleading on this issue.⁴ In doing so, Maritime has again muddied the record.

2. The Bureau believes it is in the public interest for the Presiding Judge to have an accurate record as he considers this issue. Accordingly, the Bureau offers the following summary of pertinent facts:

- Of its own volition, and for its own "internal control and accountability" purposes – and without any guarantee that the Bureau or any other parties desiring copies of these documents would or could contribute to the expense – Maritime created a sequentially-numbered set of its twelve (12) boxes of original documents.⁵
- Maritime now has – or will have by Monday, February 13, 2012 – a CD of its numbered documents that it can copy *without additional expense to Maritime*, and from which the Bureau can make copies of the documents *at its own expense*.
- Instead of producing or agreeing to produce to the Bureau a copy of this CD, Maritime is holding the sequentially numbered-versions of its documents hostage until the Bureau agrees to contribute to Maritime's cost. If the Bureau cannot agree to this ransom, Maritime will only provide the Bureau with its unnumbered, original paper documents.⁶

² See Order, FCC 12M-8 (ALJ, rel. Feb. 7, 2012). The Bureau construes "interim" as meaning subject to such information as may come to the Presiding Judge's attention in the form of a responsive pleading, such as the Bureau's instant Opposition.

³ See Maritime's Opposition to Petition for Reconsideration, filed on February 9, 2012 (Opposition).

⁴ Pursuant to Section 1.294 of the Commission's Rules, 47 C.F.R. § 1.294, replies are not authorized for discovery-based interlocutory requests.

⁵ See Opposition at 2. Notably, Maritime chose to have these documents electronically scanned and then numbered at nearly three times the cost of manually numbering the documents.

⁶ Maritime tries to make much of the fact that it has made boxes of the original unnumbered documents available to the Bureau which remain at the printer and which the Bureau has not inspected. See Opposition at 3. However, as Maritime is well-aware, it is this very issue which remains in dispute.

3. This is not just an issue, as Maritime suggests, of “procedural squabbling.”⁷

Without any explanation or reasonable basis, Maritime is refusing, now that it has (or will have) a complete set of sequentially-numbered documents available on a CD, to offer a copy of that CD to the Bureau so that the Bureau can make its own copies, at its own expense, of the numbered Maritime documents. In offering the Bureau only the unnumbered original versions of these documents, Maritime is unnecessarily imposing upon the Bureau the additional cost of repeating what Maritime has already done –disassembling a dozen boxes of records (removing clips and staples, organizing legal and other sized papers, etc.), scanning each document, and numbering them – before it can obtain a copy of Maritime’s documents. In addition, it will take the Bureau nearly the full two weeks it has already taken Maritime to complete this task – delaying even further the availability of these documents to the Bureau.

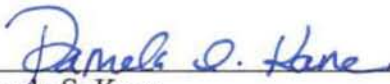
4. Simply burning a copy of the CD of its documents for the Bureau to use for copying purposes – and then return to Maritime – does not impose upon Maritime any additional financial obligation. The cost of copying the documents from that CD (*e.g.*, printing physical copies of more than 24,000 pages of documents) remains with the Bureau. Moreover, it is plainly the most effective way to ensure that all parties have an *identical copy* of Maritime’s documents to which they can refer during depositions, attach to pleadings, and introduce as evidence at trial without any confusion as to which version of such documents may have been previously authenticated.

5. For the foregoing reasons, and for those addressed in the Bureau’s Comments, the Bureau respectfully requests that the Presiding Judge issue an order compelling Maritime to provide to the Bureau, no later than 12:00 noon on Tuesday, February 14, 2012, a copy of the

⁷ Opposition at 4.

CD of its sequentially-numbered documents, from which the Bureau can expeditiously make its own copies.

Respectfully submitted,
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February 9, 2012

CERTIFICATE OF SERVICE

Makia Day, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 9th day of February, 2012, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S RESPONSE TO MARITIME'S UNAUTHORIZED PLEADING" to:

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